

Amendments to the Claims

This listing of claims will replace all prior versions and listings of claims in the present application.

1-40 (canceled)

41. (currently amended) A method of imparting pathogen resistance to plants, the method comprising:

providing a transgenic plant seed transformed with a DNA molecule encoding a hypersensitive response elicitor polypeptide or protein;
planting the transgenic plant seed in soil; and
propagating a plant from the planted seed ~~under conditions effective to impart~~
, whereby expression of the hypersensitive response elicitor polypeptide or protein by the plant imparts systemic pathogen resistance to the plant.

42. (currently amended) The A method according to claim 41, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from a pathogen selected from the group consisting of *Erwinia*, *Pseudomonas*, *Xanthomonas*, *Phytophthora*, and mixtures thereof.

43. (currently amended) The A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Erwinia chrysanthemi*.

44. (currently amended) The A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Erwinia amylovora*.

45. (withdrawn - currently amended) The A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Pseudomonas syringae*.

46. (withdrawn - currently amended) The A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Pseudomonas solanacearum*.

47. (withdrawn - currently amended) The A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Xanthomonas campestris*.

48. (withdrawn) A method according to claim 42, wherein the hypersensitive response elicitor polypeptide or protein corresponds to that derived from a *Phytophthora* species.

49. (currently amended) The A method according to claim 41, wherein the plant is selected from the group consisting of dicots and monocots.

50. (currently amended) The A method according to claim 49, wherein the plant is selected from the group consisting of rice, wheat, barley, rye, oats, cotton, sunflower, canola, peanut, corn, potato, sweet potato, bean, pea, chicory, lettuce, endive, cabbage, cauliflower, broccoli, turnip, radish, spinach, onion, garlic, eggplant, pepper, celery, carrot, squash, pumpkin, zucchini, cucumber, apple, pear, melon, strawberry, grape, raspberry, pineapple, soybean, tobacco, tomato, sorghum, and sugarcane.

51. (currently amended) The A method according to claim 49, wherein the plant is selected from the group consisting of rose, *Saintpaulia*, petunia, *Pelargonium*, poinsettia, chrysanthemum, carnation, and zinnia.

52. (currently amended) The A method according to claim 41, wherein the pathogen to which the plant is resistant is selected from the group consisting of viruses, bacteria, fungi, and combinations thereof.

53. (currently amended) The A method according to claim 41 further comprising:

applying the hypersensitive response elicitor polypeptide or protein to the propagated plants to enhance the plant's pathogen resistance.

54. (withdrawn) A method according to claim 41, wherein the hypersensitive response elicitor protein or polypeptide is a fungal hypersensitive response elicitor.

55-57 (canceled)

58. (original) A plant produced by the method of claim 41.

59. (currently amended) A transgenic plant seed from the plant produced by the method of claim 41.

60. (original) A plant propagule from the plant produced by the method of claim 41.

61. (currently amended) A method of imparting pathogen resistance to plants, the method comprising:

transforming a plant with a DNA molecule encoding a hypersensitive response elicitor polypeptide or protein ~~under conditions effective to impart~~, whereby said transforming provides for expression of the hypersensitive response elicitor polypeptide or protein that imparts systemic pathogen resistance to the transgenic plant.

62. (currently amended) The A method according to claim 61, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from a pathogen selected from the group consisting of *Erwinia*, *Pseudomonas*, *Xanthomonas*, *Phytophthora*, and mixtures thereof.

63. (currently amended) The A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Erwinia chrysanthemi*.

64. (currently amended) The A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Erwinia amylovora*.

65. (withdrawn - currently amended) The A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Pseudomonas syringae*.

66. (withdrawn - currently amended) The A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein ~~is corresponds to that derived~~ from *Pseudomonas solanacearum*.

67. (withdrawn - currently amended) The A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein is ~~corresponds to that derived from~~ *Xanthomonas campestris*.

68. (withdrawn) A method according to claim 62, wherein the hypersensitive response elicitor polypeptide or protein corresponds to that derived from a *Phytophthora species*.

69. (currently amended) The A method according to claim 61, wherein the transgenic plant is selected from the group consisting of dicots and monocots.

70. (currently amended) The A method according to claim 69, wherein the plant is selected from the group consisting of rice, wheat, barley, rye, oats, cotton, sunflower, canola, peanut, corn, potato, sweet potato, bean, pea, chicory, lettuce, endive, cabbage, cauliflower, broccoli, turnip, radish, spinach, onion, garlic, eggplant, pepper, celery, carrot, squash, pumpkin, zucchini, cucumber, apple, pear, melon, strawberry, grape, raspberry, pineapple, soybean, tobacco, tomato, sorghum, and sugarcane.

71. (currently amended) The A method according to claim 69, wherein the plant is selected from the group consisting of rose, Saintpaulia, petunia, Pelargonium, poinsettia, chrysanthemum, carnation, and zinnia.

72. (currently amended) The A method according to claim 61, wherein the pathogen to which the transgenic plant is resistant is selected from the group consisting of viruses, bacteria, fungi, and combinations thereof.

73. (currently amended) The A method according to claim 61, further comprising:

applying the hypersensitive response elicitor polypeptide or protein to the transgenic plant to enhance the plant's pathogen resistance.

74. (withdrawn) A method according to claim 61, wherein the hypersensitive response elicitor protein or polypeptide is a fungal hypersensitive response elicitor.

75. (currently amended) A transgenic plant produced by ~~the~~ a process comprising:

transforming a plant with a DNA molecule encoding a hypersensitive response elicitor polypeptide or protein ~~under conditions effective to impart~~, whereby said transforming provides for expression of the hypersensitive response elicitor polypeptide or protein to impart systemic pathogen resistance to the transgenic plant.

76. (previously presented) A transgenic plant seed obtained from the transgenic plant of claim 75.

77. (previously presented) A transgenic plant propagule obtained from the transgenic plant of claim 75.

78. (new) The method according to claim 61 wherein the DNA molecule used to transform the transgenic plant seed comprises a promoter that is not pathogen-inducible, the promoter being operatively coupled to the portion of the DNA molecule encoding the hypersensitive response elicitor polypeptide or protein.

79. (new) The transgenic plant according to claim 75 wherein the DNA molecule used during said transforming comprises a promoter that is not pathogen-inducible, the promoter being operatively coupled to the portion of the DNA molecule encoding the hypersensitive response elicitor polypeptide or protein.